

REMARKS

This paper responds to the final official action mailed 02/16/2011, in which the Examiner allowed claims 36-39, 45 and 47; and rejected claims 1-3, 5-15, 17-19, 21-23, 25, 29-35, 42-44 and 46 under section 112 grounds. Applicants thank Examiner Matzek for the courteous telephonic interview with the undersigned attorney on April 26, 2011. It is believed that agreement was reached that the instant amendments address all outstanding rejections and place the application in condition for allowance.

Claims 4-5, 16-17, 20, 24, 26-28, and 40-41 are cancelled leaving claims 1-3, 6-15, 18-19, 21-23, 25, 29-39 and 42-47 pending. Independent claims 1, 9 and 32 are amended herein, in each case incorporating the limitations of an existing dependent claim. Claim 8 is amended back to its original form to avoid redundancy, the limitation of “roofing shingle” now being incorporated into claim 1. Support for the amendments is found in the original claims.

Rejected claims 1-3, 5-15, 17-19, 21-23, 25, 29-35, 42-44 and 46 were rejected only under section 112 first paragraph. The Examiner takes the position that written description is lacking for a genus of roof coverings having at least 5% improved tear resistance. Rather he maintains that only the species “shingles” is adequately described to have this property. Applicants disagree, but have agreed to the amendments to claims 1, 9 and 32 to incorporate the language that “the roof covering is a roofing shingle” in order to protect a significant commercial species, while reserving the right to pursue additional claims of the genus via a continuation.

In conclusion, all the pending claims should be formally allowed. Upon careful review and consideration it is believed the Examiner will agree with this proposition. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited.

In the event any issues remain, the Examiner is invited to telephone the Applicant's undersigned attorney.

Respectfully submitted,

/Thomas D. Brainard/

Thomas D. Brainard

Reg. No. 32,459

MacMillan, Sobanski & Todd, LLC
One Maritime Plaza, Fifth Floor
720 Water Street
Toledo, Ohio 43604
(419) 255-5900